Remarks

The Office Action dated December 18, 2003, has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-18 are now pending in this application. Claims 1-18 are rejected. Claim 10 is objected to. Claims 1-3, 5, 8, 10 and 11 have been amended. No new matter has been added.

In accordance with 37 C.F.R. 1.136(a), a three-month extension of time is submitted herewith to extend the due date of the response to the Office Action dated December 18, 2003 for the above-identified patent application from March 18, 2004 through and including June 18, 2004. In accordance with 37 C.F.R. 1.17(a)(3), authorization to charge a deposit account in the amount of $950.00 to cover this extension of time request also is submitted herewith.

The objection to the abstract is respectfully traversed. Applicants have amended the abstract. Accordingly, Applicants respectfully request that the objection to the abstract be withdrawn.

The objection to Claim 10 is respectfully traversed. Applicants have amended Claim 10. Accordingly, Applicants respectfully request that the objection to Claim 10 be withdrawn.

The rejection of Claims 1, 7-9 and 15-18 under 35 U.S.C. § 103(a) as being unpatentable over Bisdikian et al. (U.S. Patent No. 6,205,413) in view of Kurtzberg et al. (U.S. Patent No. 5,710,700) is respectfully traversed.

Bisdikian et al. describe a network monitoring and testing system that reflects a subscriber's perception of a quality of provided services (column 1, lines 65-67). The system collects performance data from a series of interactions (or tests) between a subscriber computer system and a service provider and performs statistical analysis and report the test results of these tests to appropriate network and service providers personnel (column 2, lines 1-5).

Kurtzberg et al. describe a method including a data acquisition and a preparation step (column 5, lines 30-31). The step prepares data for subsequent analysis (column 5, lines 31-32). Its function is to insure data reliability and to format data for subsequent use (column 5, lines 32-33). Here, observations with incomplete or incorrect data are treated or eliminated, outliers are deleted and collinear variables are removed (column 5, lines 33-35). Data distribution tests are performed to identify the data underlying distributions and, possibly, to determine need for transformations to exhibit proper statistical properties (e.g., taking logarithms to approach a normal distribution) (column 5, lines 35-39).

Claim 1 recites a method for analyzing and displaying reliability data through use of a network-based system including a server and at least one device connected to the server via a network, the method comprising the steps of "receiving reliability information from a user via the device, wherein said receiving reliability information includes obtaining reliability information regarding a product; performing statistical tests on the received reliability information; generating a report relating to the statistical tests; displaying information related to the report; receiving a confidence level of a parameter of the product; and predicting a life of the product based, at least in part, on the confidence level."

Neither Bisdikian et al. nor Kurtzberg et al., considered alone or in combination, describe or suggest a method for analyzing and displaying reliability data as recited in Claim 1. Specifically, neither Bisdikian et al. nor Kurtzberg et al., considered alone or in combination, describe or suggest receiving a confidence level of a parameter of the product and predicting a life of the product based, at least in part, on the confidence level. Rather, Bisdikian et al. describe collecting performance data from a series of tests between a subscriber computer system and a service provider, statistically analyzing the data, and reporting the test results of the tests to appropriate network and service providers personnel. Kurtzberg et al. describe acquiring data, insuring reliability of the data, formatting the data for subsequent use, and determining a need for transformation of the data to exhibit proper statistical properties. Accordingly, neither Bisdikian et al. nor Kurtzberg et al., considered alone or in combination, describe or suggest receiving a confidence level and predicting a life of the product based, at least in part, on the confidence level as

recited in Claim 1. For the reasons set forth above, Claim 1 is submitted to be patentable over Bisdikian et al. in view of Kurtzberg et al.

Claim 7 depends on independent Claim 1. When the recitations of Claim 7 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claim 7 likewise is patentable over Bisdikian et al. in view of Kurtzberg et al.

Claim 8 recites a system for analyzing and displaying reliability data, the system comprising "a device; and a server connected to said device and configured to receive reliability information from a user via said device, wherein the reliability information includes information regarding a product, said server further configured to: perform statistical tests on the received reliability information; generate a report relating to the statistical tests; display information related to the report; receive a confidence level of a parameter of the product; and predict a life of the product based, at least in part, on the confidence level."

Neither Bisdikian et al. nor Kurtzberg et al., considered alone or in combination, describe or suggest a system for analyzing and displaying reliability data as recited in Claim 8. Specifically, neither Bisdikian et al. nor Kurtzberg et al., considered alone or in combination, describe or suggest a server configured to receive a confidence level of a parameter of the product and predict a life of the product based, at least in part, on the confidence level. Rather, Bisdikian et al. describe collecting performance data from a series of tests between a subscriber computer system and a service provider, statistically analyzing the data, and reporting the test results of the tests to appropriate network and service providers personnel. Kurtzberg et al. describe acquiring data, insuring reliability of the data, formatting the data for subsequent use, and determining a need for transformation of the data to exhibit proper statistical properties. Accordingly, neither Bisdikian et al. nor Kurtzberg et al., considered alone or in combination, describe or suggest a server configured to receive a confidence level and predict a life of the product based, at least in part, on the confidence level as recited in Claim 8. For the reasons set forth above, Claim 8 is submitted to be patentable over Bisdikian et al. in view of Kurtzberg et al.

Claims 9 and 15-18 depend, directly or indirectly, from independent Claim 8. When the recitations of Claims 9 and 15-18 are considered in combination with the recitations of Claim 8, Applicants submit that dependent Claims 9 and 15-18 likewise are patentable over Bisdikian et al. in view of Kurtzberg et al.

For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1, 7-9 and 15-18 be withdrawn.

The rejection of Claims 2-3 and 10-11 under 35 U.S.C. § 103(a) as being unpatentable over Bisdikian et al. in view of Kurtzberg et al., and further in view of Wicks et al. (U.S. Patent No. 5,499,030) is respectfully traversed.

Bisdikian et al. and Kurtzberg et al. are described above. Wicks et al. describe a system related to constant false alarm rate (CFAR) signal processors, and in particular, to a CFAR which improves radar signal processor performance by increasing target probability of detection and reducing probability of false alarms in a severe radar clutter environment (column 1, lines 12-18). One conventional performance measure of a detector is receiver operating characteristics (ROC) which is a plot of detection probability versus false alarm probability (column 7, lines 63-66). Detection performance as a function of a probability density function (pdf), or more specifically, a variation of parameters of a given pdf is provided by the system (column 8, lines 5-8). A plot of detection probability versus Weibull shape parameter for two (arbitrary) CFAR algorithms is also provided by the system (column 8, lines 7-9).

Claims 2 and 3 depend, directly or indirectly from independent Claim 1 which recites a method for analyzing and displaying reliability data through use of a network-based system including a server and at least one device connected to the server via a network, the method comprising the steps of "receiving reliability information from a user via the device, wherein said receiving reliability information includes obtaining reliability information regarding a product; performing statistical tests on the received reliability information; generating a report relating to the statistical tests; displaying information related to the report; receiving a confidence level of a parameter of the product; and predicting a life of the product based, at least in part, on the confidence level."

None of Bisdikian et al., Kurtzberg et al., or Wicks et al., considered alone or in combination, describe or suggest a method for analyzing and displaying reliability data as recited in Claim 1. Specifically, none of Bisdikian et al., Kurtzberg et al., or Wicks et al., considered alone or in combination, describe or suggest receiving a confidence level of a parameter of the product and predicting a life of the product based, at least in part, on the confidence level. Rather, Bisdikian et al. describe collecting performance data from a series of tests between a subscriber computer system and a service provider, statistically analyzing the data, and reporting the test results of the tests to appropriate network and service providers personnel. Kurtzberg et al. describe acquiring data, insuring reliability of the data, formatting the data for subsequent use, and determining a need for transformation of the data to exhibit proper statistical properties. Wicks et al. describe plotting detection probability versus false alarm probability and plotting detection probability versus Weibull shape parameter. Accordingly, none of Bisdikian et al., Kurtzberg et al., or Wicks et al., considered alone or in combination, describe or suggest receiving a confidence level and predicting a life of the product based, at least in part, on the confidence level as recited in Claim 1. For the reasons set forth above, Claim 1 is submitted to be patentable over Bisdikian et al. in view of Kurtzberg et al. and further in view of Wicks et al.

When the recitations of Claims 2 and 3 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2 and 3 likewise are patentable over Bisdikian et al. in view of Kurtzberg et al. and further in view of Wicks et al.

Claims 10 and 11 depend on independent Claim 8 which recites a system for analyzing and displaying reliability data, the system comprising "a device; and a server connected to said device and configured to receive reliability information from a user via said device, wherein the reliability information includes information regarding a product, said server further configured to: perform statistical tests on the received reliability information; generate a report relating to the statistical tests; display information related to the report; receive a confidence level of a parameter of the product; and predict a life of the product based, at least in part, on the confidence level."

None of Bisdikian et al., Kurtzberg et al., or Wicks et al., considered alone or in combination, describe or suggest a system for analyzing and displaying reliability data as recited in Claim 8. Specifically, none of Bisdikian et al., Kurtzberg et al., or Wicks et al., considered alone or in combination, describe or suggest a server configured to receive a confidence level of a parameter of the product and predict a life of the product based, at least in part, on the confidence level. Bisdikian et al. describe collecting performance data from a series of tests between a subscriber computer system and a service provider, statistically analyzing the data, and reporting the test results of the tests to appropriate network and service providers personnel. Kurtzberg et al. describe acquiring data, insuring reliability of the data, formatting the data for subsequent use, and determining a need for transformation of the data to exhibit proper statistical properties. Wicks et al. describe plotting detection probability versus false alarm probability and plotting detection probability versus Weibull shape parameter. Accordingly, none of Bisdikian et al., Kurtzberg et al., or Wicks et al., considered alone or in combination, describe or suggest a server configured to receive a confidence level and predict a life of the product based, at least in part, on the confidence level as recited in Claim 8. For the reasons set forth above, Claim 8 is submitted to be patentable over Bisdikian et al. in view of Kurtzberg et al. and further in view of Wicks et al.

When the recitations of Claims 10 and 11 are considered in combination with the recitations of Claim 8, Applicants submit that dependent Claims 10 and 11 likewise are patentable over Bisdikian et al. in view of Kurtzberg et al. and further in view of Wicks et al.

For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 2-3 and 10-11 be withdrawn.

The rejection of Claims 4-5 and 12-13 under 35 U.S.C. § 103(a) as being unpatentable over Bisdikian et al. in view of Kurtzberg et al., and further in view of Patel et al. (U.S. Patent No. 6,405,108) is respectfully traversed.

Bisdikian et al. and Kurtzberg et al. are described above. Patel et al. describe a process for systematically developing algorithms for predicting failures in a system, such as a locomotive, having a plurality of subsystems (column 2, lines 25-29). The

process allows for conducting a failure mode analysis for a respective subsystem so as to identify target failure modes of the subsystem (column 4, line 66 – column 5, line 2). The failure mode analysis may be conducted on previously recorded field data so as to identify high-level failure modes of the respective subsystem (column 5, lines 2-4). This step conveniently allows a team to focus efforts on the failure modes that offer a substantial potential for improvement by the use of well-known tools, such as Pareto charts and the like (column 5, lines 4-7).

Claims 4 and 5 depend, directly or indirectly from independent Claim 1 which recites a method for analyzing and displaying reliability data through use of a network-based system including a server and at least one device connected to the server via a network, the method comprising the steps of "receiving reliability information from a user via the device, wherein said receiving reliability information includes obtaining reliability information regarding a product; performing statistical tests on the received reliability information; generating a report relating to the statistical tests; displaying information related to the report; receiving a confidence level of a parameter of the product; and predicting a life of the product based, at least in part, on the confidence level."

None of Bisdikian et al., Kurtzberg et al., or Patel et al., considered alone or in combination, describe or suggest a method for analyzing and displaying reliability data as recited in Claim 1. Specifically, none of Bisdikian et al., Kurtzberg et al., or Patel et al., considered alone or in combination, describe or suggest receiving a confidence level of a parameter of the product and predicting a life of the product based, at least in part, on the confidence level. Rather, Bisdikian et al. describe collecting performance data from a series of tests between a subscriber computer system and a service provider, statistically analyzing the data, and reporting the test results of the tests to appropriate network and service providers personnel. Kurtzberg et al. describe acquiring data, insuring reliability of the data, formatting the data for subsequent use, and determining a need for transformation of the data to exhibit proper statistical properties. Patel et al. describe focusing efforts on failure modes that offer a substantial potential for improvement by the use of well-known tools, such as Pareto charts. Accordingly, none of Bisdikian et al., Kurtzberg et al., or Patel et al., considered alone or in combination, describe or suggest receiving a confidence level

and predicting a life of the product based, at least in part, on the confidence level as recited in Claim 1. For the reasons set forth above, Claim 1 is submitted to be patentable over Bisdikian et al. in view of Kurtzberg et al. and further in view of Patel et al.

When the recitations of Claims 4 and 5 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 4 and 5 likewise are patentable over Bisdikian et al. in view of Kurtzberg et al. and further in view of Patel et al.

Claims 12 and 13 depend on independent Claim 8 which recites a system for analyzing and displaying reliability data, the system comprising "a device; and a server connected to said device and configured to receive reliability information from a user via said device, wherein the reliability information includes information regarding a product, said server further configured to: perform statistical tests on the received reliability information; generate a report relating to the statistical tests; display information related to the report; receive a confidence level of a parameter of the product; and predict a life of the product based, at least in part, on the confidence level."

None of Bisdikian et al., Kurtzberg et al., or Patel et al., considered alone or in combination, describe or suggest a system for analyzing and displaying reliability data as recited in Claim 8. Specifically, none of Bisdikian et al., Kurtzberg et al., or Patel et al., considered alone or in combination, describe or suggest a server configured to receive a confidence level of a parameter of the product and predict a life of the product based, at least in part, on the confidence level. Bisdikian et al. describe collecting performance data from a series of tests between a subscriber computer system and a service provider, statistically analyzing the data, and reporting the test results of the tests to appropriate network and service providers personnel. Kurtzberg et al. describe acquiring data, insuring reliability of the data, formatting the data for subsequent use, and determining a need for transformation of the data to exhibit proper statistical properties. Patel et al. describe focusing efforts on failure modes that offer a substantial potential for improvement by the use of well-known tools, such as Pareto charts. Accordingly, none of Bisdikian et al., Kurtzberg et al., or Patel et al., considered alone or in combination, describe or suggest a server configured to receive

a confidence level and predict a life of the product based, at least in part, on the confidence level as recited in Claim 8. For the reasons set forth above, Claim 8 is submitted to be patentable over Bisdikian et al. in view of Kurtzberg et al. and further in view of Patel et al.

When the recitations of Claims 12 and 13 are considered in combination with the recitations of Claim 8, Applicants submit that dependent Claims 12 and 13 likewise are patentable over Bisdikian et al. in view of Kurtzberg et al. and further in view of Patel et al.

For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 4-5 and 12-13 be withdrawn.

The rejection of Claims 6 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Bisdikian et al. in view of Kurtzberg et al., and further in view of McGee et al. (U.S. Patent No. 6,643,613) is respectfully traversed.

Bisdikian et al. and Kurtzberg et al. are described above.

Applicants respectfully submit that McGee et al. is not prior art under 35 U.S.C. § 103(a) because McGee et al. is not prior art under 35 U.S.C. § 102. A 35 U.S.C. 103 rejection is based on a 102(a), 102(b), 102(e) etc. depending on the type of prior art reference used and its publication or issue date (MPEP 2141.01). Before answering Graham's 'content" inquiry, it must be known whether a patent or publication is in the prior art under 35 U.S.C. 102. In re Oetiker, 977 F.2d 1443, 1447, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992) (MPEP 2144.08). Accordingly, Applicants respectfully submit that before using McGee et al. as a prior art reference under 35 U.S.C. § 103(a), McGee et al. must be prior art under 35 U.S.C. § 102. Applicants respectfully submit that McGee et al. is not prior art under 102 because McGee et al. is not prior art under 35 U.S.C. § 102(a), § 102(b), or § 102(e).

McGee et al. is not prior art under 35 U.S.C. § 102(a) because McGee et al. was not patented before the filing date, December 22, 2000, of the above-referenced application. A person shall be entitled to a patent unless the invention was patented or described in a printed publication before the invention thereof by the applicant for a patent (MPEP 2132). McGee et al. was patented on November 4, 2003, which is not

earlier in time than the filing date of the above-referenced patent application. Accordingly, Applicants respectfully submit that McGee et al. is not prior art under 35 U.S.C. § 102(a).

McGee et al. is not prior art under 35 U.S.C. § 102(b) because McGee et al. was not patented more than one year prior to the filing date, December 22, 2000, of the above-referenced application. A person shall be entitled to a patent unless the invention was patented or described in a printed publication more than one year prior to the date of application for patent in the United States (MPEP 2133). McGee et al. was patented on November 4, 2003, which is not more than one year prior to the filing date of the above-referenced patent application. Accordingly, Applicants respectfully submit that McGee et al. is not prior art under 35 U.S.C. § 102(b).

McGee et al. is not prior art under 35 U.S.C. § 102(e) because McGee et al. was not described in a patent granted on an application filed in the United States before the filing date, December 22, 2000, of the above-referenced application. A person shall be entitled to a patent unless the invention was described in a patent granted on an application filed in the United States before the invention by the applicant for patent (MPEP 2136).

The earliest critical reference date of McGee et al. is July 3, 2001. The 35 U.S.C. 102(e) critical reference date of a U.S. patent entitled to the benefit of a provisional application filed under 35 U.S.C. 119(e) is the filing date of the provisional application (MPEP 2136.03). McGee et al. claims priority to provisional U.S. applications filed July 3, 2001, July 20, 2001, and September 13, 2001 and so the earliest critical reference date of McGee et al. is July 3, 2001.

The earliest critical reference date of McGee et al. is not before the filing date of the above-referenced patent application. Accordingly, Applicants respectfully submit that McGee et al. is not prior art under 35 U.S.C. § 102(e).

For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 6 and 14 be withdrawn.

Moreover, Applicants respectfully submit that the Section 103 rejections of Claims 1-5, 7-13, and 15-18 are not proper rejections. As is well established,

obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. None of Bisdikian et al., Kurtzberg et al., Wicks et al., or Patel et al., considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Bisdikian et al. with Kurtzberg et al., Wicks et al. or Patel et al. because there is no motivation to combine the references suggested in the cited art itself.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

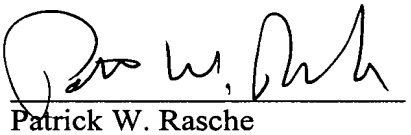
Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejections are based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Bisdikian et al. teach collecting performance data from a series of tests between a subscriber computer system and a service provider, statistically analyzing the data, and reporting the test results of the tests to appropriate network and service providers personnel. Kurtzberg et al. teach acquiring data, insuring reliability of the data, formatting the data for subsequent use, and determining a need for transformation of the data to exhibit proper statistical

properties. Wicks et al. teach plotting detection probability versus false alarm probability and plotting detection probability versus Weibull shape parameter. Patel et al. teach focusing efforts on failure modes that offer a substantial potential for improvement by the use of well-known tools, such as Pareto charts. Since there is no teaching nor suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejections of Claims 1-5, 7-13, and 15-18 be withdrawn.

For at least the reasons set forth above, Applicants respectfully request that the rejections of Claims 1-18 under 35 U.S.C. 103(a) be withdrawn.

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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